

1979 WL 42914 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 10, 1979

*1 Peter D. Hyman, Esquire
Florence County Attorney
Post Office Box 1770
Florence, South Carolina 29503

Dear Mr. Hyman:

You have requested an opinion from this Office as to whether or not the boards of trustees of the several school districts of Florence County may sell certain school property without the necessity of conducting such sales by sealed bid or at public auction. In my opinion, if the school property to be sold does not have abandoned school buildings situate thereon, the school trustees may do so pursuant to [Section 59-19-250, CODE OF LAWS OF SOUTH CAROLINA, 1976](#). That section places no restrictions other than the trustees' discretion on sales of unimproved school property. If, however, real estate to be sold by a school district has a building or buildings situate thereon, it appears obvious that the sale of such property is subject to either the provisions of [Section 59-23-310, CODE OF LAWS OF SOUTH CAROLINA, 1976](#), a law of general applicability dealing specifically with the sale of abandoned school building, or one of several special laws relating to the same subject as to certain counties. There is a special law relating to the sale of abandoned school property in Florence County. Act No. 903 of 1956 [49 STAT. 2156 (1956)], as amended by Act No. 49 of 1957 [50 STAT. 52 (1957)].

Applying the rule of statutory construction that, if there is a conflict between a general law and a later special law on the same subject, the special law will prevail [[South Carolina Electric and Gas Co. v. South Carolina Public Service Authority, 215 S.C. 193, 54 S.E.2d 777](#)], I think that the provisions of Act No. 49 of 1957 control if the property to be disposed of constitutes abandoned school property because the 1957 legislation was enacted subsequent to the statutory provision of [Section 59-19-250 of the 1976 Code](#). See, § 21-238, CODE OF LAWS OF SOUTH CAROLINA, 1952, as amended.

You have also requested an opinion as to whether or not the opinion dated November 15, 1978, is inconsistent with the contents of [Section 59-19-250 of the 1976 Code](#) and with Opinion No. 2864 of the 1970 Opinions of the Attorney General. The 1978 opinion assumed that you were requesting an opinion regarding the sale of school property with abandoned buildings thereon, which would make [Section 59-19-250](#) inapplicable. That opinion I also believe to be consistent with the 1970 Opinion which concluded in part:

If the real estate which is the subject of your inquiry has a building situate thereon, it is the opinion of this office that the provisions of Section 21-331 (Code of Laws, 1962) would be applicable . . .

Section 21-331 of the 1962 Code related to the disposition of abandoned school buildings.

My understanding is that three of the properties sought to be sold by school trustees in Florence County do not have school buildings located on them, and, in my opinion, these properties may be sold pursuant to [Section 59-19-250](#) without bids or auction. I also understand that a fourth property, to be sold by the School District No. 5, contains a house formerly used as an administration building. It is my opinion that any building formerly used for school purposes is an abandoned school building within the meaning of Act No. 903 of 1956; accordingly, such property should be sold only as provided by Section 1 of Act No. 49 of 1957.

With kind regards,

***2** Karen LeCraft Henderson
Senior Assistant Attorney General

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